

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

NATIONAL RAILROAD PASSENGER ) 3:11-cv-00461-HDM-VPC  
CORPORATION, )

Plaintiff, ) ORDER

vs. )

JOHN DAVIS TRUCKING COMPANY, )  
INC., )

Defendant. )

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JOHN DAVIS TRUCKING COMPANY, )  
INC., )

Counterclaimant, )

vs. )

NATIONAL RAILROAD PASSENGER )  
CORPORATION, UNION PACIFIC )  
RAILROAD COMPANY, and DOES 1-5, )

Counterdefendants. )

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UNION PACIFIC RAILROAD COMPANY, )

Counterclaimant, )

vs. )

JOHN DAVIS TRUCKING COMPANY, )  
INC., )

Counterdefendant. )

1 On August 27, 2014, the jury returned verdicts in favor of  
2 National Railroad Passenger Corporation ("Amtrak") and Union  
3 Pacific Railroad Company ("Union Pacific") (collectively  
4 "railroads") and against John Davis Trucking Company, Inc. ("JDT").  
5 On August 29, 2014, the jury awarded Amtrak \$4,552,459.44 in  
6 damages and Union Pacific \$210,777.04 in damages.

7 On September 24, 2014, JDT filed a renewed motion for judgment  
8 as a matter of law, or in the alternative, for a new trial (#775).  
9 The railroads have opposed (#807), and JDT has replied (#809).

10 Under Federal Rule of Civil Procedure 50(a), a party may move  
11 for judgment as a matter of law after the opposing party has been  
12 fully heard on an issue but before the case is submitted to the  
13 jury. *E.E.O.C. v. Go Daddy Software, Inc.*, 581 F.3d 951, 961 (9th  
14 Cir. 2009); *Freund v. Nycomed Amersham*, 347 F.3d 752, 761 (9th Cir.  
15 2003). If the court denies the Rule 50(a) motion and the jury  
16 returns a verdict against the moving party, the party may renew its  
17 motion under Rule 50(b). *Id.* The jury's verdict must be upheld  
18 "if there was any 'legally sufficient basis' to support it."  
19 *Experience Hendrix L.L.C. v. Hendrixlicensing.com Ltd*, 762 F.3d  
20 829, 842 (9th Cir. 2014) (quoting *Costa v. Desert Palace, Inc.*, 299  
21 F.3d 838, 859 (9th Cir. 2002)). "In making that determination, the  
22 district court considers all of the evidence in the record, drawing  
23 all reasonable inferences in favor of the nonmoving party . . . .;  
24 the court may not make any credibility determinations or reweigh  
25 the evidence." *Id.* "Judgment as a matter of law is proper when  
26 the evidence permits a reasonable jury to reach only one  
27 conclusion" and "that conclusion is contrary to the jury's  
28 verdict." *Martin v. Calif. Dep't of Veterans Affairs*, 560 F.3d

1 1042, 1046 (9th Cir. 2009) (quoting *Quiksilver, Inc. v. Kymsta*  
2 *Corp.*, 466 F.3d 749, 755 (9th Cir. 2006) and *Pavao v. Pagay*, 307  
3 F.3d 915, 918 (9th Cir. 2002)). "If reasonable minds could differ  
4 as to the import of the evidence, . . . a verdict should not be  
5 directed." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-51  
6 (1986).

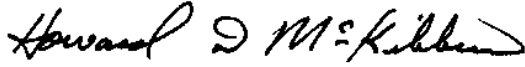
7 Under Federal Rule of Civil Procedure 59, a party may move for  
8 a new trial as to some or all issues. While the rule "does not  
9 specify the grounds on which a motion for a new trial may be  
10 granted," the court is "bound by those grounds that have been  
11 historically recognized." *Zhang v. Am. Gem Seafoods, Inc.*, 339  
12 F.3d 1020, 1035 (9th Cir. 2003). Examples of such grounds include  
13 "that the verdict is against the weight of the evidence, that the  
14 damages are excessive, or that, for other reasons, the trial was  
15 not fair to the party moving." *Molski v. M.J. Cable, Inc.*, 481  
16 F.3d 724, 729 (9th Cir. 2007) (quoting *Montgomery Ward & Co. v.*  
17 *Duncan*, 311 U.S. 243, 251 (1940)). The Ninth Circuit has held that  
18 the court "may grant a new trial only if the verdict is contrary to  
19 the clear weight of the evidence, is based upon false or perjurious  
20 evidence, or to prevent a miscarriage of justice." *Id.* (quoting  
21 *Passantino v. Johnson & Johnson Consumer Prods.*, 212 F.3d 493, 510  
22 n. 15 (9th Cir. 2000)).

23 JDT's motion is comprised largely of arguments it has already  
24 raised - in some cases repeatedly - and which the court has already  
25 decided. For the reasons previously set forth by the court, its  
26 prior rulings on those issues are hereby reconfirmed. To the  
27 extent any arguments are raised that have not been previously  
28 addressed by the court, the court finds they are not supported by

1 the law or facts of this case. A legally sufficient basis existed  
2 for the jury's verdicts. The verdicts were not contrary to the  
3 clear weight of the evidence, the damages were reasonable and  
4 supported by the evidence, and there is no basis for concluding  
5 that the jury was presented with false or perjurious evidence.  
6 Finally, JDT received a fair trial on all issues raised.  
7 Accordingly, JDT's renewed motion for judgment as a matter of law  
8 or in the alternative for a new trial (#775) is **DENIED**.

9 **IT IS SO ORDERED.**

10 DATED: This 25th day of January, 2016.

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13 UNITED STATES DISTRICT JUDGE  
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